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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,861	03/08/2004	David Chelchowski	LP-02-003C2	1255
7590	03/30/2005		EXAMINER	
Ralph C. Francis Francis Law Group 1808 Santa Clara Avenue Alameda, CA 94501			BOCHNA, DAVID	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/795,861

Applicant(s)

CHELCHOWSKI ET AL.

Examiner

David E. Bochna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The phrase "The present invention relates to" should be removed from the abstract.

2. The disclosure is objected to because of the following informalities:

The cross-references to related applications needs to be added to the specification: See 37 CFR 1.78 and MPEP § 201.11.

Claim Objections

3. Claim 10 is objected to because of the following informalities: It appears that "said nut having projections" in line 6 should be "said grip ring having projections" because from the drawings only the grip ring has projections that dig into the pipe when the nut is tightened. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3-4, 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris.

In regard to claim 1, Harris discloses a pipe coupling including:

a body 12 having an external thread 14 and annular inner surfaces defining a socket within the body of larger outer diameter at an outer end than at an intermediate location of said socket;

a stop (where pipe ends in fig. 1) extending at least partially around the annular inner surface in the intermediate location of said socket at a position offset from the end of said intermediate location where the end is distal from said outer end;

a nut 31 having an internal threads at an inner end thereof engaging said body external thread, an inwardly facing abutment surface between ends of said nut and an outwardly converging internal circular surface between said abutment surface and an outer end of said nut;

an annular sleeve 24 having an abutment surface at its outer end co-operable with said nut abutment surface, and a resilient gasket 18 secured to its inner end;

a deformable gripping member 25 having an outwardly converging outer surface complementary to said outwardly converging internal nut surface, the gripping member having an internal surface with barbs 26 extending radially inwardly therefrom; internal diameters of said socket inner end, sleeve and gripping member all being slightly greater than an external

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diameter of a pipe to which said coupling is securable, such that an end of said pipe is freely insertable through said gripping member and into said socket intermediate part until it abuts the stop, and tightening of said nut over said external thread causes axial movement of said gasket ring, sealable engagement of said gasket ring and said body, radially inward deformations of said gripping member such that the said barbs clamp said pipe, and axial movement of said pipe over the stop and towards the end of said intermediate location.

In regard to claim 3, the stop is a plurality of projections 13 positioned circumferentially and symmetrically around the inner annular surface.

In regard to claim 4, there are at least three projections 13 disposed 120 degrees angularly to each other.

In regard to claim 8, the projections are wedge shaped projections whose longitudinal direction extends generally perpendicular to the longitudinal direction of the coupling.

In regard to claim 10, Harris discloses a pipe coupling of the type where a pipe is freely insertable into the coupling and including:

a body 10 having annular inner surfaces and external threads;

a nut 31 having internal threads adapted to engage said body;

a grip ring 24 disposed within the body and of a shape and configuration that rotation of the nut causes it to move in both the axial and longitudinal direction, said nut having projections adapted to engage said pipe when the nut is tightened and having an end adapted to engage a gasket and move it into a sealing cavity when the nut is tightened wherein said body includes an abutment surface located at a position away from the ends of said body to provide a guide to the user when inserting the pipe freely into the coupling and where the abutment surface is of a

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shape and configuration such that under rotation of the nut the pipe is Caused to move over said abutment surface and further into said coupling.

1. Claims 1 and 3-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Egozi.

In regard to claim 1, Egozi discloses a pipe coupling including a body 2 having an external thread 24 and annular inner surfaces 22 defining a socket within the body of larger outer diameter 23 at an outer end than at an intermediate location of the socket;

A stop 25 extending at least partially around the annular inner surface in the intermediate location of the socket at a position offset from the end of the intermediate location 22 where the end is distal from the outer end;

a nut 3 having an internal thread 32 at an inner end thereof engaging the body external thread, an inwardly facing abutment surface (inner cylindrical surface of 3 between the end of the threads and the beginning of the slanted surface 35) between ends of the nut, and an outwardly converging internal circular surface 35 between the abutment surface and an outer end 37 of the nut 3;

an annular sleeve 5 having an abutment surface at its outer end (side of 5 abutting 4) co-operable with the nut abutment surface (5 co-operates with 4 which abuts the abutment surface of 3), and a resilient gasket 6 secured to its inner end;

a deformable gripping member 4 having an outwardly converging outer surface complementary to the outwardly converging internal nut surface, the gripping member having an internal surface with barbs extending radially inwardly therefrom;

internal diameters of the socket inner end, sleeve and gripping member all being slightly greater than an external diameter of a pipe (P) to which the coupling is securable, such that an

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end of the pipe is freely insertable through the gripping member and into the socket intermediate part until it abuts the stop, and tightening of the nut over the external thread causes axial movement of the gasket ring, sealable engagement of the gasket ring and the body, radially inward deformation of the gripping member such that the barbs clam the pipe, and axial movement of the pipe over the stop and towards the end of the intermediate location (see claim 8).

In regard to claim 3, the stop comprises a plurality of projections positioned circumferentially and symmetrically around the inner annular surface (see fig. 11).

In regard to claim 4, there are at least three projections disposed 120 degrees angularly to each other (see fig. 11).

In regard to claim 5, the projections are wedge shaped projections whose longitudinal direction extends in the longitudinal direction of the coupling (see fig. 11, 12).

In regard to claim 6, the front surface 25b of the wedge facing the outer end is disposed at an angle other than a right angle but greater than 45 degrees to the longitudinal axis.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al.

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In regard to claim 1, Anderson et al. discloses a pipe coupling including a body 10 having an external thread and annular inner surfaces defining a socket within the body of larger outer diameter at an outer end than at an intermediate location of the socket;

A stop 29 extending at least partially around the annular inner surface in the intermediate location of the socket at a position offset from the end of the intermediate location where the end is distal from the outer end;

a nut 16 having an internal thread at an inner end thereof engaging the body external thread, an inwardly facing abutment surface between ends of the nut, and an outwardly converging internal circular surface between the abutment surface and an outer end of the nut;

an annular sleeve 26 having an abutment surface at its outer end co-operable with the nut abutment surface, and a resilient gasket 28 secured to its inner end;

a deformable gripping member 34 having an outwardly converging outer surface complementary to the outwardly converging internal nut surface, the gripping member having an internal surface with a barb extending radially inwardly therefrom;

internal diameters of the socket inner end, sleeve and gripping member all being slightly greater than an external diameter of a pipe to which the coupling is securable, such that an end of the pipe is freely insertable through the gripping member and into the socket intermediate part until it abuts the stop, and tightening of the nut over the external thread causes axial movement of the gasket ring, sealable engagement of the gasket ring and the body, radially inward deformation of the gripping member such that the barbs clam the pipe, and axial movement of the pipe over the stop and towards the end of the intermediate location. Anderson et al. does not disclose a plurality of barbs. However, it would have been obvious to a person having ordinary

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skill in the art to add additional barbs to the gripping member because duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

In regard to claim 2, the stop 29 comprises an annular abutment surface extending circumferentially around the annular inner surface.

In regard to claim 10, Anderson et al. discloses a pipe coupling wherein a pipe 12 is freely insertable into the coupling, comprising:

A body 10 having annular inner surfaces 31 and external threads;

A nut 16 having internal threads adapted to engage the body;

A grip ring 24 disposed within the body and of a shape and configuration that rotation of the nut causes it to move in both the axial and longitudinal direction, the grip ring having a projection adapted to engage the pipe 12 when the nut is tightened and having an end (inner side of the same flange contacting 24) adapted to engage a gasket 28 (16 engages 28 via 24 and 26) and move it into a sealing cavity when the nut is tightened, wherein the body includes an abutment surface 29 located at a position away from the ends of the body to provide a guide to the user when inserting the pipe freely into the coupling and where the abutment surface is of a shape and configuration such that under rotation of the nut the pipe is caused to move over the abutment surface 29 and further into the coupling (onto surface 31). Anderson et al. does not disclose a plurality of projections. However, it would have been obvious to a person having ordinary skill in the art to add additional projections to the gripping member because duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

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8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harris.

Harris discloses a pipe coupling with wedge shaped projections as described above, but does not disclose that the projections are arcuate. However, it would have been obvious to make the wedge projections arcuate because a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Double Patenting

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1-10 are rejected under the judicially created doctrine of double patenting over claims 1-10 of U. S. Patent No. 6,702,336 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter.


Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Bochna whose telephone number is (703) 306-9040. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.


David Bochna
Primary Examiner
Art Unit 3679
March 20, 2005